MONTANA LEGISLATIVE HISTORY

Chapter 295 19 95

Bill H 566 S _____ Original bill & history ✓ C

H. Committee on Health Care Select

Hearing Date(s) 2/21 ✓ C

_____ C

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_____ C

Date Out _____ C

S. Committee on Joint Health Care Select

Hearing Date(s) 3/07 ✓ C

Exec. Action 3/13 ✓ C

_____ C

_____ C

Did this bill originate in an interim committee? ____ Yes ✓ No

Committee _____ Report _____

2/18	2ND READING PASSED AS AMENDED	85	14
2/21	3RD READING PASSED	84	15
	TRANSMITTED TO SENATE		
2/27	FIRST READING		
2/27	REFERRED TO BUSINESS & INDUSTRY		
3/03	HEARING		
3/04	COMMITTEE REPORT—BILL CONCURRED		
3/09	2ND READING CONCURRED	47	1
3/10	3RD READING CONCURRED	41	2
	RETURNED TO HOUSE		
3/13	SIGNED BY SPEAKER		
3/14	SIGNED BY PRESIDENT		
3/14	TRANSMITTED TO GOVERNOR		
3/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 148		
	EFFECTIVE DATE: 10/01/95		

HB 560 INTRODUCED BY SIMON, ET AL.

PROVIDE FOR MEDICAL CARE SAVINGS ACCOUNTS

3/13 Executive Action on HB 560 pp 15-21.

2/15	INTRODUCED		
2/15	FIRST READING		
2/15	REFERRED TO HEALTH CARE SELECT		
2/16	FISCAL NOTE REQUESTED		
2/21	HEARING		
2/22	FISCAL NOTE PRINTED		
3/04	REREFERRED TO JOINT HEALTH CARE SELECT		
3/07	HEARING		
3/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/18	2ND READING PASSED AS AMENDED	85	14
3/20	3RD READING PASSED	85	14
	TRANSMITTED TO SENATE		
3/21	FIRST READING		

NOTE: ON 3/8, THE SENATE SUSPENDED ITS RULES TO ALLOW THE JOINT HEALTH CARE SELECT COMMITTEE TO VOTE AS A BODY RATHER THAN A SEPARATE CHAMBER. THUS HB 560 PROCEEDED DIRECTLY TO 2ND READING SINCE THIS BILL, WHILE IN THE HOUSE, ALREADY HAD BEEN REPORTED OUT OF THIS COMMITTEE.

3/25	2ND READING CONCURRED	29	15
3/27	3RD READING CONCURRED	35	14
	RETURNED TO HOUSE		
3/28	SIGNED BY SPEAKER		
3/28	SIGNED BY PRESIDENT		
3/29	TRANSMITTED TO GOVERNOR		
3/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 295		
	EFFECTIVE DATE: 01/01/96		

HB 561 INTRODUCED BY LARSON

INCREASE THE MOTORCYCLE SAFETY TRAINING FEE

2/15	INTRODUCED
2/15	FIRST READING
2/15	REFERRED TO TAXATION
2/16	FISCAL NOTE REQUESTED
2/17	FISCAL NOTE RECEIVED
2/18	FISCAL NOTE PRINTED
3/01	HEARING
3/02	COMMITTEE REPORT—BILL PASSED

HOUSE BILL NO. 560

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR MEDICAL CARE SAVINGS ACCOUNTS; PROVIDING DEFINITIONS; PROVIDING FOR ESTABLISHMENT AND ADMINISTRATION OF ACCOUNTS; PROVIDING FOR AN EXCLUSION FROM ADJUSTED GROSS INCOME OF FUNDS CONTAINED WITHIN AN ACCOUNT AND FUNDS WITHDRAWN FOR ELIGIBLE MEDICAL EXPENSES OR FOR THE LONG-TERM CARE OF THE ACCOUNT HOLDER; PROVIDING FOR WITHDRAWALS FROM AN ACCOUNT FOR PURPOSES OTHER THAN ELIGIBLE MEDICAL EXPENSES AND LONG-TERM CARE; PROVIDING PENALTIES; AND AMENDING SECTION 15-30-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be cited as the "Montana Medical Care Savings Account Act of 1995".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 7], unless it clearly appears otherwise, the following definitions apply:

(1) "Account administrator" means:

(a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

(b) a health care insurer as defined in 33-22-125;

(c) a broker-dealer, issuer, or investment adviser as defined in 30-10-103 or a federal investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 to 80a-64;

(d) a certified public accountant licensed to practice in this state pursuant to Title 37, chapter 50; or

(e) an employer if the employer has a self-insured health plan under ERISA.

(2) "Account holder" means an individual who is a resident of this state and who establishes a medical care savings account or for whose benefit the account is established.

(3) "Dependent" means the spouse of the employee or account holder or a child of the employee or account holder if the child is:

(a) under 23 years of age and enrolled as a full-time student at an accredited college or university or is under 19 years of age;

(b) legally entitled to the provision of proper or necessary subsistence, education, medical care, or other care necessary for the health, guidance, or well-being of the child and is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) mentally or physically incapacitated to the extent that the child is not self-sufficient.

(4) "Eligible medical expense" means an expense paid by the employee or account holder for medical care defined by 26 U.S.C. 213(d) for the employee or account holder or a dependent of the employee or account holder.

(5) "Employee" means an employed individual for whose benefit or for the benefit of whose dependents a medical care savings account is established. The term includes a self-employed individual.

(6) "ERISA" means the Employee Retirement Income Security Act of 1974, Public Law 93-406.

(7) "Medical care savings account" or "account" means an account established with an account administrator in this state pursuant to [section 3].

NEW SECTION. **Section 3. Establishment of account.** (1) An employer, except as otherwise provided by statute, contract, or a collective bargaining agreement, may establish a medical care savings account for an employee of the employer.

(2) An individual who is a resident of this state may establish a medical care savings account for that individual or for a dependent of the individual.

(3) Before making any contributions to an employee's account, an employer shall inform an employee in writing of the state and federal tax status of contributions made pursuant to [sections 1 through 7].

(4) Upon agreement between an employer and an employee, an employee may have the employer contribute either to the employee's medical care savings account or to a health insurance policy or program for the employee.

NEW SECTION. **Section 4. Tax exemption -- conditions.** (1) Except as provided in this section, the amount of principal provided for in subsection (2) contributed annually by an employee or account holder to an account and all interest or other income on that principal may be excluded from the adjusted

1 gross income of the employee or account holder and are exempt from taxation, in accordance with
2 15-30-111(2)(j), as long as the principal and interest are contained within the account or are withdrawn
3 only for payment of eligible medical expenses or for the long-term care of the employee or account holder
4 or a dependent of the employee or account holder. Any part of the principal or income, or both, withdrawn
5 from an account may not be excluded under subsection (2) and this subsection if the amount is withdrawn
6 from the account and used for a purpose other than an eligible medical expense or the long-term care of
7 the employee or account holder.

8 (2) Except as provided in subsection (4), an employee or account holder may deposit into an
9 account in 1 year and may exclude as an annual contribution in 1 year no more than $3,000. There is no
10 limitation on the amount of funds that may be retained tax-free within an account.

11 (3) A deduction pursuant to 15-30-121 is not allowed to an employee or account holder for an
12 amount contributed to an account.

13 (4) An employee or account holder may in 1 year deposit into an account more than the amount
14 allowed by subsection (2) if the exemption claimed by the employee or account holder in the year does not
15 exceed $3,000.

16 (5) The transfer of money in an account owned by one employee or account holder to the account
17 of another employee or account holder within the immediate family of the first employee or account holder
18 does not subject either employee or account holder to tax liability under this section. Amounts contained
19 within the account of the receiving employee or account holder are subject to the requirements and
20 limitations provided in this section.

21 (6) A change in the account administrator does not subject the employee or account holder to tax
22 liability.

23 (7) The amount of a disbursement of any assets of a medical care savings account pursuant to a
24 filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 to 1330, by an employee or
25 account holder does not subject the employee or account holder to tax liability.

26 (8) Within 30 days of being furnished proof of the death of the employee or account holder, the
27 account administrator shall distribute the principal and accumulated interest in the account to the estate
28 of the employee or account holder.

29

30 NEW SECTION. **Section 5. Withdrawal of funds from account for purposes other than medical**

1 **expenses and long-term care.** (1) An employee or account holder may withdraw money from the
2 individual's medical care savings account for any purpose other than an eligible medical expense or the
3 long-term care of the employee or account holder only on the last business day of the account
4 administrator's business year.
5 (2) If the employee or account holder withdraws money from the account other than for eligible
6 medical expenses or long-term care and other than on the last business day of the account administrator's
7 business year, the administrator shall withhold from the amount of the withdrawal and, on behalf of the
8 employee or account holder, pay as a penalty to the department of revenue an amount equal to 10% of
9 the amount of the withdrawal. Payments made to the department pursuant to this section must be
10 deposited in the general fund.
11
12 NEW SECTION. **Section 6. Administration of account.** (1) An account administrator shall
13 administer the medical care savings account from which the payment of claims is made and has a fiduciary
14 duty to the person for whose benefit the account is administered.
15 (2) Not more than 30 days after an account administrator begins to administer an account, the
16 account administrator shall notify in writing each employee and account holder on whose behalf the
17 account administrator administers an account of the date of the last business day of the account
18 administrator's business year.
19 (3) An account administrator may use funds held in a medical care savings account only for the
20 purpose of paying the eligible medical expenses of the employee or account holder or the employee's or
21 account holder's dependents, purchasing long-term care insurance or a long-term care annuity, or paying
22 the expenses of administering the account. Funds held in a medical care savings account may not be used
23 to pay medical expenses of the employee or account holder or a dependent of the employee or account
24 holder that are otherwise reimbursable, including medical expenses payable pursuant to an automobile
25 insurance policy, workers' compensation insurance policy or self-insured plan, or another health coverage
26 policy, certificate, or contract.
27 (4) The employee or account holder may submit documentation of eligible medical expenses paid
28 by the employee or account holder in the tax year to the account administrator, and the account
29 administrator shall reimburse the employee or account holder from the employee's or account holder's
30 account for eligible medical expenses.

(5) The employee or account holder may submit documentation of the purchase of long-term care insurance or a long-term care annuity to the account administrator, and the account administrator shall reimburse the employee or account holder from the employee's or account holder's account for payments made for the purchase of the insurance or annuity. The account administrator may also provide for a system of automatic withdrawals from the account for the payment of long-term care insurance premiums or an annuity.

(6) If an employer makes contributions to a medical care savings account on a periodic installment basis, the employer may advance to an employee, interest free, an amount necessary to cover medical expenses incurred that exceeds the amount in the employee's medical care savings account at the time the expense is incurred if the employee agrees to repay the advance from future installments or when the employee ceases employment with the employer.

NEW SECTION. **Section 7. False claims prohibited -- penalty.** (1) A person may not knowingly prepare or cause to be prepared a false claim, receipt, statement, or billing to justify the withdrawal of money from an account.

(2) A person who violates subsection (1) by preparing or causing the preparation of a false claim, receipt, statement, or billing in an amount not exceeding $300 is guilty of theft and upon conviction shall be fined an amount not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined $1,000 and be imprisoned in the county jail for a term of not less than 30 days or more than 6 months.

(3) A person who violates subsection (1) by preparing or causing the preparation of a false claim, receipt, statement, or billing in an amount of $300 or more is guilty of theft and upon conviction shall be fined an amount not to exceed $50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the amount withdrawn from an account in violation of this section.

1 **Section 8.** Section 15-30-111, MCA, is amended to read:

2 "**15-30-111. Adjusted gross income.** (1) Adjusted gross income ~~shall be~~ is the taxpayer's federal
3 income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that
4 section may be labeled or amended and in addition ~~shall include~~ includes the following:

5 (a) interest received on obligations of another state or territory or county, municipality, district, or
6 other political subdivision thereof;

7 (b) refunds received of federal income tax, to the extent the deduction of ~~such~~ the tax resulted in
8 a reduction of Montana income tax liability;

9 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue
10 Code of 1954~~,~~ that has been reduced by any federal taxes paid by the subchapter S. corporation on the
11 income; and

12 (d) depreciation or amortization taken on a title plant as defined in 33-25-105(15).

13 (2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or
14 amended, adjusted gross income does not include the following which are exempt from taxation under this
15 chapter:

16 (a) all interest income from obligations of the United States government, the state of Montana,
17 county, municipality, district, or other political subdivision thereof;

18 (b) interest income earned by a taxpayer age 65 or older in a taxable year up to and including $800
19 for a taxpayer filing a separate return and $1,600 for each joint return;

20 (c) (i) except as provided in subsection (2)(c)(ii), the first $3,600 of all pension and annuity income
21 received as defined in 15-30-101;

22 (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

23 (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total
24 amount of the exclusion provided in (2)(c)(i) by $2 for every $1 of federal adjusted gross income in excess
25 of $30,000 as shown on the taxpayer's return;

26 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity
27 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided
28 in subsection (2)(c)(i) must be reduced by $2 for every $1 of federal adjusted gross income in excess of
29 $30,000 as shown on their joint return;

30 (d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law; ~~and~~

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange"; and

(j) principal and income in a medical care savings account established in accordance with [section 3] or withdrawn from an account for eligible medical expenses as defined in [section 2] or for the long-term care of the taxpayer.

(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in ~~his~~ adjusted gross income the earnings and profits of the DISC in the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced ~~his~~ business deductions by an amount for wages and salaries for which a federal tax credit was elected under section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who ~~must~~ include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of

1 the taxable year and who has retired as permanently and totally disabled may exclude from adjusted gross
2 income up to $100 per week received as wages or payments in lieu of wages for a period during which the
3 employee is absent from work due to the disability. If the adjusted gross income before this exclusion and
4 before application of the two-earner married couple deduction exceeds $15,000, the excess reduces the
5 exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's
6 eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the
7 limitation for income exceeding $15,000 is determined with respect to the spouses on their combined
8 adjust gross income. For the purpose of this subsection, permanently and totally disabled means unable
9 to e ge in any substantial gainful activity by reason of any medically determined physical or mental
10 i airment lasting or expected to last at least 12 months. (Subsection (2)(f) terminates on occurrence of
11 contingency--sec. 3, Ch. 634, L. 1983.)"
12
13 NEW SECTION. **Section 9. Codification instruction.** [Sections 1 through 7] are intended to be
14 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 7].
15 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0560, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act providing for medical care savings accounts; providing definitions; providing for establishment and administration of accounts; providing for an exclusion from adjusted gross income of funds contained within an account and funds withdrawn for eligible medical expenses or for the long-term care of the account holder; providing for withdrawal from an account for purposes other than eligible medical expenses and long-term care; and providing penalties.

ASSUMPTIONS:
1. This legislation is effective October 1, 1995.
2. This legislation applies to tax years beginning after December 31, 1995 (MDOR).
3. It is assumed that retirees would not use medical savings accounts (MDOR).
4. It is assumed that households in poverty would not use medical savings accounts (MDOR).
5. The 1993 poverty thresholds (below which households are estimated to be in poverty) are as follows: single person households under age 65, $7,518; single parent households, $11,137; and married couple households (with and without children), $11,631 (U.S. Bureau of the Census and MDOR).
6. The proposed legislation allows an exclusion from Montana Adjusted Gross Income of up to $3,000 of deposits in medical savings accounts, for the payment of eligible medical expenses or for long-term care expenses.
7. It is assumed that lower income groups will contribute smaller amounts to medical savings accounts as compared with higher income households (MDOR).
8. The amount of annual contributions is assumed to be national out-of-pocket health care expenditures by income group published for 1991, adjusted to calendar year 1996 by projected increases in medical costs, and modified to Montana using the ratio of average 1992 out-of-pocket Montana household health expenditures ($1,133) to estimated 1992 out-of-pocket U.S. household health expenditures ($1,679) (*Consumer Expenditure Survey*, 1990-91, U.S. Bureau of Labor Statistics; Wharton Econometric Forecasting Associates for projected medical cost increases; Montana Heath Care Authority for Montana out-of-pocket health care expenditures; and U.S. Bureau of the Census for estimated number of households).
9. The amount of assumed contributions by participating non-poverty households by income group is as follows: (1) under $5,000, all households in poverty, zero contributions; (2) $5,000--$9,999, $959 in contributions; (3) $10,000--$14,999, $1,193 in contributions; (4) $15,000--$19,999, $1,257 in contributions; (5) $20,000--$29,999, $1,377 in contributions; (6) $30,000--$39,999, $1,425; (7) $40,000--$49,999, $1,494; and (8) $50,000 and over, $1,888 in contributions (MDOR).

(Continued page 2)

Dave Lewis 2-21-95 Bruce Simon

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

BRUCE SIMON, PRIMARY SPONSOR DATE
Fiscal Note for HB0560, as introduced

HB 560

ASSUMPTIONS: (continued)

10. If all households participated in the medical savings account program defined in this legislation, the negative revenue impact for the individual income tax for tax year 1996 (FY97) would be $14.6 million for resident taxpayers (MDOR Income Tax Simulation Model).
11. Even though this legislation is written for residents (Section 3), under 15-30-131 (MCA) non-residents are treated as residents. Therefore medical savings accounts are assumed to apply to residents and non-residents alike (MDOR).
12. An estimated additional 6 percent of the resident tax impact applies to non-residents, for a total potential negative revenue impact for FY97 of about $15.5 million (MDOR).
13. Not all households will participate in the medical savings account program under this bill. Only employees covered under an employer self-insured plan sanctioned by ERISA (Employee Retirement Income Security Act of 1974, Public Law 93-406) may participate through medical savings accounts set up by employers; many households already participate in the current federal flexible medical spending account program (Section 125); some people, particularly young adults, are simply very healthy and need very minimal health care; some households just above the poverty line go without health care because they cannot afford it; and many households do not use government programs because of lack of information and other reasons, 1996 would be the first year of the program (MDOR).
14. The legislation specifies a 10 percent penalty for medical savings account withdrawals for other than medical (including long-term care) purposes, to be deposited in the state general fund. It is assumed that this provision will act to deter non-medical related withdrawals and that deposits in the state general fund will be minimal.
15. It is assumed that 20 percent of households will use this program in tax year 1996, yielding a negative revenue impact of roughly $3.1 million (MDOR).
16. In order to implement this legislation, the Department of Revenue would require one additional FTE employee; a line would need to be added to the individual income tax return with related programming and other data processing costs; and additional equipment would be necessary (MDOR).

(Fiscal Impact - see page 3)

ɔte Request, HB0560, as introduced

ɘd)

MPACT:

ures:

	FY96 Difference	FY97 Difference
Services	$13,193	$26,386
g Costs	10,885	3,340
ıt	6,589	0
	$30,667	$29,726

:

	FY96 Difference	FY97 Difference
Income Tax	0	($3,100,000)

t:

ınd	($30,667)	($3,129,726)

NGE EFFECTS OF PROPOSED LEGISLATION:

ırance premiums and other health care costs will increase over time. Because of this ıd because of possible increased participation in the savings account program, it is the negative revenue impact of this legislation will increase over the long run.

those areas which are core functions. He indicated that the emphasis on public health in Montana has been neglected in Montana in favor of environmental protection functions.

REP. TUSS stated that she was aware of the aggressive and progressive implementation of the programs in Missoula County and in the Kalispell area. She indicated that she was equally aware of the "abysmal record" of her own county. She asked if this data would be used to rate the performance of county health departments and how the Department of Health and Environmental Sciences is going to ensure that "we have an aggressive, progressive county health department for all the people of Montana, not just for the people of Montana who happen to be led by creative, progressive people."

Mr. Robinson stated that the Cascade County health department has some of the same assessments as Flathead County, Missoula County, and Lewis and Clark County. He stated that rather than grading the health departments, the focus would be on the core functions and the implementation of the core functions.

REP. TUSS asked if the goal would be the preparation of a standard by which all efforts can be assessed.

Mr. Robinson said he didn't know if it would be a standard or a goal, but it would be the implementation of the core functions.

Closing by Sponsor:

REP. TASH stated that this kind of legislation does need some work and indicated that the people who brought this legislation forward would be more than willing to work with this Committee in the best interest of the bill. He stated he appreciated the Committee's questions and comments on funding and measuring the savings and success of the program.

REP. TASH said that the location of Montana's four largest hospitals could be considered rural by federal standards and this is one aspect that illustrates the need for a public health program to deal with the "Montana frontier." He stated that this program would encompass public health needs for the benefit of all Montanans.

HEARING ON HB 560

Opening Statement by Sponsor:

REP. BRUCE SIMON, HD 18, Billings, Montana, stated that HB 560 deals with the overall health care cost and changes the way people access health care at a lower cost. He indicated that the careful consumers of health care are currently not rewarded and HB 560 could change that through Medical Savings Accounts (MSA). An MSA could be established with contributions from an employer

or directly from an individual. He indicated that a variety of different entities could administer the account.

REP. SIMON indicated that the money which would go into the MSA is not taxed. Under this bill, up to $3,000 of pre-taxed income may be deposited. Money withdrawn from a MSA for medical expenses would be paid directly and the unspent money would stay in the account. He stated that up to $3,000 a year may be deposited in a MSA and can be used for direct health care expenses. If the member lets it accumulate, it may be used to purchase a long-term care policy or an annuity which could be used for long-term care. He stated that money from a Medical Savings Account can also be used to purchase health care insurance.

REP. SIMON stated that if the money was taken out of the MSA and was not used for health care purposes there are two consequences: 1) If money is withdrawn from the Medical Savings Account on the last day of the year, then taxes must be paid (this serves as an incentive to keep the money in the Medical Savings Account), and 2) to prevent people from taking money out of the account in the middle of the year, there is a 10% penalty for early withdrawal.

{Tape: 3; Side: A.}

REP. SIMON discussed Multiple Employer Welfare Arrangements (MEWAs) and the Employees Retirement Income Security Act (ERISA). A microchip card containing a individual's medical history could also include information about the Medical Savings Account. This may be a way to cut back on the amount of paperwork.

Proponents' Testimony:

Susan Good, Heal Montana, stated that House Joint Resolution 19, which was passed a couple of sessions ago by the Montana Legislature, urged the United States Congress to adopt Medical Savings Accounts on a national level. She indicated that this may happen during the current session of Congress. However, the Montana legislature has "already ignored the notion of MSAs." She said that MSAs are more effective than any alternative in reaching five important goals: 1) controlling health care costs, 2) maintaining the quality of health care, 3) getting more Americans covered by private health insurance, 4) making the market for medical care more competitive, and 5) reforming Medicare, Medicaid and other government health care programs.

She said when people purchase medical care with MSAs they will be spending their own money and would then be more careful consumers in the medical marketplace. She discussed the doctor/patient relationship and how MSAs would assist in encouraging greater communication between doctors and their patients. She said it would help maintain the quality of care. She referred to **REP. SIMON'S** statement about the lack of information most people have in terms of what medical procedures will cost them and then upon

receiving their bill, not being able to figure it out. She said certain elective procedures, such as cosmetic surgery or treatments for obesity and preventive care would be covered under MSAs. She mentioned that MSAs would provide health insurance coverage for people changing jobs or careers. She said that long-term care would also be made available under an MSA. She highlighted that this would create "real" insurance. Insurance for unforeseen, risky and costly medical episodes would be covered. She said that MSAs would be the private property of the people who own them and while MSAs would be optional, many people would choose to increase the deductible on their policies and put the premium savings into an MSA. She provided an example--for every dollar spent on health care, only five cents covers the actual expense, the rest goes to the insurance company, employer or the government.

Eugene Randash, NAPA Auto Parts, said he was supportive of HB 560 because from an employer's standpoint, he wondered why he should control or possess his employees' health insurance. He cited other programs that provide tax breaks for employees, but he believed this bill would empower the individual to make their own decisions and audit their own medical expenses. He said the other systems are cumbersome because they require the person to estimate what they're going to spend and if they don't spend it, they lose it, so it's wasteful. He liked the aspect of being able to build up a reserve fund. He said this company participated in a BCBS fee-for-service program, which wasn't being utilized so BCBS wanted them to join an HMO program. After three years their rates increased 75%. He said his employees usually didn't have the amount of the deductible in their pockets. He was paying his employees' premiums so he withheld enough money from their pay to put into special account for employees to cover their $250 deductible. This was an agreement with them to cover their deductible to help them manage their health care and decide the most economical course of action.

David Owen, Montana Chamber of Commerce, said his chairman of the board did some extensive research on health care and firmly came to the conclusion that what was missing in health care was the consumer being in charge of their own dollars. The MSA program will solve that. He described a Wall Street Journal article about a Jersey City situation that benefitted from a MSA approach to health care insurance. He stated that the Chamber's stand on health care comes from a market-based approach and he thinks the more people involved in the marketplace, the more it will do to keep costs down.

Don Allen, Montana Medical Benefit Plan, added a couple points to the aforementioned testimony and said it will help people get personally involved and is critical in bringing health care costs down. He said it takes advantage of a free enterprise system and gets patients involved in the cost containment picture. He said this bill addresses both of those issues.

Tanya Ask, Blue Cross/Blue Shield, stated that MSAs are an area of experimentation that Montana should consider, and is just one piece in the overall equation but there are other things that need to be done. The concept is one which can help some people, but is not going to help everybody. Those who can benefit from it, should be allowed to experiment with it. She had some questions and had spoken to the sponsor, in reference to page 2, Section 3, "ability to establish the account," under subsection (4), it says upon an agreement with employer and employee, that the employer could contribute either to the MSA or to an insurance program and they wondered about possibility of doing both. The reason is that MSAs are designed to go with a catastrophic health care plan, as **Susan Good** pointed out, people do desire protection for catastrophic events, even under the MSA concept. She said some may be able to pay for an office visit and get reimbursed from their MSA, but most could not pay a $10,000 or $50,000 hospital bill. She said it would be important to allow the either/or approach.

She referred to the amount of the contribution where it states that the first year the contribution is limited to $3,000. She wondered if that amount would be the maximum in subsequent years. On the withdrawal of funds, she wondered about the tax consequences, if used for other than medical care or medical expenses, what kind of threshold should be left in the MSA, so there is money to pay for out-of-pocket expenses when needed.

Mike Craig, Health Care Authority, pointed out that **Ms. Ask's** comments are comments he also intended to make. He also recognized that those features of the proposal need to be addressed. Throughout the state they've heard a tremendous amount of support for MSAs and also see it as just a piece of health care. They need to monitor the work of other states because it's an untested area, and he hoped that they could continue the effort. He appreciated the opportunity to share what they've learned, and recommended this bill be combined with the other two MSA bills, to arrive at one exemplary piece of legislation. He said they are supportive of HB 560, and look forward in 1997 to the evaluation of the program's success.

Larry Akey, Montana Association of Life Underwriters, stated their support of HB 560 and shared some concerns expressed by **Ms. Ask**, particularly being able to put benefits both into a insurance policy and a medical savings accounts. He didn't feel the employee should have to choose one or the other. He repeated a statement made earlier that they don't necessarily believe medical savings accounts are the "silver bullet" in the health care financing and delivery debate. He said they think if the tax incentives are limited only to the state level--which is really all the legislators have in their power to control--that may be slightly overstating what some of the benefits are in practice, what other proponents have said about the benefits of MSAs are there in theory. He thought they ought to give it a chance to work in Montana just like the purchasing pools or other programs

the committee has discussed. He urged a do pass on this bill and said it's by far one of the "cleanest" health care proposals the committee has before them and his organization endorses it.

Opponents' Testimony: None

Technical Information:

Bob Turner, Bureau Chief, Income Tax Division, wished to comment on the technical aspects of the bill. The effective date as it appears, October 1995, would only give three months for someone to pay into the MSA. If paid in prior to that, it would not be deducted on their tax return, so he suggested they make it effective December 31, 1994, which give them the entire year. On page 3, subsection (4), **Ms. Ask** brought up a question he was also concerned with, that of the maximum deduction every year being only $3,000, no matter what amount they put into the MSA. He said the way he read this section, that anyone with a personal exemption of less than $3,000 after one year, could put in any amount they wanted and have it excluded. He said that exemption to him means personal exemption amount. He thought they could remove subsection (4) and take care of the discrepancy in the bill in terms of loss deductions.

Tape 3 - Side B

He said this money would be invested like a mutual fund, and what happens if that account loses money. Does the taxpayer take a loss on that? He said he would assist in working out amendments for the bill to address these concerns.

CHAIRMAN SCOTT said they had a suggestion from **REP. JOHNSON** that since there are so many names on the bill, to take executive action on the floor. He said it would be prudent to wait until they've seen the fiscal note and then take action on it. He said the sponsor of the bill will be available for executive action discussion, so he asked that questions be directed to those who would not be present at that time.

Questions From Committee Members and Responses:

REP. TUSS said she has a "flexspend" account with her employer, a kind of mini-medical savings account. She has withdrawal limits already agreed upon and she knows what she can spend the money on. She asked **Mr. Turner** if there are restrictions such as this in HB 560, and did he think having such limits would make it easier for people to understand.

Mr. Turner said from an income tax point of view, it is better. He said he's always trying to "second guess" what tax lawyers are going to say about new programs like MSA, and it would be beneficial for the department to clarify how the bill would impact taxpayers. He said he also has a flexible spending account with a maximum $2,000 that can only be spent for medical expenses

not covered by insurance. If it's not spent for this purpose, it's gone.

REP. TUSS said that answered her question and she understood the "use it or lose it" provision. She asked **Mr. Turner** if there would be any benefit in capping the MSAs, because if they can put in as much as they want but can only deduct so much each year, how can that help pay for medical expenses that will be higher later in life, for which this money can be particularly useful.

Mr. Turner said he's concerned about the cap in terms of deductibility from income tax. He thought they needed to address the possibility of a loss in the MSA should the investment result in a loss and not a gain, and where it would be applied for tax purposes.

REP. SIMPKINS said, "Let's say we put in $3,000 which is tax-deductible." He said they passed a bill in a previous session allowing the deduction of all medical expenses. With this bill, they could deduct the $3,000 as well as medical expense paid for by MSA, and he asked, would that be, in essence, getting a double deduction?

Mr. Turner responded that wouldn't be correct and cited page 3, line 11, subsection (3), protection of powers act, where it specifies it cannot be used as an itemized deduction if used to pay for medical expenses.

REP. SIMPKINS said he wondered then why someone would want to put more into the account than they could deduct on their taxes. **Mr. Turner** said there wouldn't be any more benefit than the $3,000.

REP. SIMPKINS said that he assumed the fiscal note would be substantial, and asked if there was any way they could compute what the tax deductions would be. He thought it would help to have the insurance industry give them the cost for a health insurance policy with a $250 deductible and $5,000 deductible. **Mr. Turner** said they would have to determine how many people would buy those policies; that would be the big question. **REP. SIMPKINS** agreed they would probably be better off with a fixed dollar amount.

REP. TUSS asked **Ms. Good** to provide her with a copy of a summary for the Rand Study which **Ms. Good** said was completed over a 14-year period and completed in 1984. **REP. TUSS** asked if there were any other studies conducted by Rand or published subsequent to the 1984 Rand study. **Ms. Good** said she was sure there were, but the Montana Health Care Authority might have more information.

REP. LIZ SMITH asked **Mr. Turner** how he perceived the MSAs working under a managed care system. She reworded her question and asked if HMOs are introduced, could MSAs work within the HMO system. **Mr. Turner** asked **REP. SMITH** if she was asking if the employer also pays for a policy, if that could also be deducted? **REP.**

SMITH wondered how they could interrelate that way. **Mr. Turner** said the way he read the bill, the account holder would receive the deduction.

REP. SQUIRES said an MSA is an entirely different kind of savings account, so they don't connect with each other. "In my mind, you either do medical savings accounts to go to the goal of taking care of yourself or you have the provision of an HMO from your employer."

Mr. Akey stated that he understood that was correct. An MSA is a self-directed health maintenance organization.

REP. SQUIRES said they would start with $3,000 and pick up the HMO at some point, but keep them separate. She asked if it was correct that the tax breaks are limited to $3,000.

Mr. Turner responded that rather than an HMO on the high end of the MSA, they are likely to have a traditional indemnity-style health insurance policy. It would not be a managed care policy, but a policy that simply says they will pay after their first $3,000 of expenses on a 80/20 co-payment policy. An HMO is an entirely different approach than an MSA.

REP. TUSS asked **Ms. Ask** about the $3,000 cap each year. She wanted to know what kind of income a family would have to have to put $3,000 away into the MSA and what kind of medical expenses would add up to $3,000. **Ms. Ask** replied that most people do not use $3,000 worth of health care in a given year. Most use a very small amount. In 1994, 65% of policy holders filed claims of $1,000 or less. She said many do not even submit a claim in any given year. Of those who had high claims, they had almost 500 cases where the cost was in excess of $80,000. With the average annual income in Montana at about $21,000, not many can save $3,000 per year. She reiterated that for those who can save that much money, it may be a good option.

REP. TUSS asked if it would advantageous for a person relying solely on insurance for health care, to purchase a plan with a $3,000 deductible. **Ms. Ask** said first, having the $3,000 deductible policy might not be what she wants, because she might have other medical expenses that might have used the MSA for expenses that a regular policy wouldn't cover, for instance, dental work. She said the MSA should be built up over a few years to cover catastrophic costs that may occur.

REP. SQUIRES asked what the average income for the state is. **Mr. Owen** responded that he thought it was about $18,000. **REP. SQUIRES** speculated if she put $3,000 into her MSA for one year, and didn't use it, but the next year accumulated some savings, could she use the MSA as a supplement to an insurance policy with a large deductible, if that next year she gets sick. She asked **Mr. Akey** when it would "kick in" to the Blue Cross policy. **Mr. Akey** said his understanding of the concept was if someone wanted to

put some money aside or the employer put it aside for the employee, the money belongs to the individual to spend on medical expenses not covered by an insurance policy they may have. This MSA can be used to pay the deductible as well as uncovered expenses.

REP. SQUIRES asked if she would still have coverage under the insurance policy even if she had an MSA, and the MSA would cover her co-payment costs. **Mr. Akey** said she could have a MSA and also an insurance policy with a low deductible. He stressed that the MSA is a way to put money aside on a tax-exempt basis for medical costs that are unforeseen and not covered by a health insurance policy.

REP. LIZ SMITH asked **Mr. Akey** if they should have to use insurance, for instance, for an 80/20 co-payment, would it be more appropriately used as a complement to the insurance, since the premiums would be less because they're taking responsibility for the first $3,000 expense. **Mr. Akey** said that was exactly right and eventually a person could get to the point where they've built up enough assets in an MSA, and if they happened to have $100,000 saved, they would no longer need an insurance policy. In the initial years, however, they would use the two together.

In theory, they would buy an insurance policy with a higher deductible, thereby getting lower premiums on a policy, knowing there was money in the MSA to cover the higher deductible.

REP. LIZ SMITH asked if an employer would have to deduct the MSA contribution from an employees wages in the beginning.

Mr. Akey replied that health insurance is a substitute for wages, and does not come out of wages; it is taking money that is in excess of salary as a benefit. One of benefits an employer could provide is putting money into an MSA. If an employer did that, they would be able to put the money into a savings account and accomplish the same thing. **REP. SMITH** asked if an employee would immediately have an MSA account with $3,000 on the first day of employment.

Mr. Akey suspected it would be treated differently, depending upon the employer. It could be treated like any other benefit, each pay period a portion of the $3,000 could be donated by employer to the MSA and they wouldn't be able to take advantage of the MSA on the first day of employment, but after the usual probationary period.

Mr. Owen described one city government that was funding a family health plan which cost them $4,800, with a $250 deductible. They found they could buy a $2,000 deductible plan for $2,800, took the $2,000 they were paying for the premium and put it into a savings account. They let the employees direct it and gave them

control over the additional funds to pay the deductible or whatever they needed.

Tape 4 - Side A

REP. LIZ SMITH asked if a low income family with no benefits would be able to develop a MSA. **David Owen** said about three-quarters of their members offer some health insurance benefits to their employees. A minimum wage earner would probably not have a MSA.

CHAIRMAN ORR suggested she redirect her question to **Ms. Good.**

Ms. Good referred to the bill, page 2, section 3, subsection (2), where it says they don't have to be an employee, an individual may also purchase an MSA. A person who is now buying health insurance, is paying for it with "after-tax dollars." She said MSAs are not just for the wealthy, because the person could pay as little as $100 per month into the account and it is, in fact, more economical because they would be able to place pre-tax dollars into the MSA.

REP. SQUIRES said that **Mr. Randash** provided $250 toward the deductible of his employees' insurance, and asked if this was the average kind of contribution that a small employer makes. **Mr. Owen** said he thought that would be more typical, and said that most employers try to provide some kind of insurance.

REP. SQUIRES mentioned an employer in Missoula who might be better able to help an employee put away $3,000 in an MSA. **Mr. Owen** said the $3,000 could be structured many different ways. He said from the standpoint of his members, the real advantage for them is being able to keep up with increasing insurance premiums and having the ability to restructure the package and add slowly to an account over time.

REP. SIMPKINS said "We're really getting wrapped around the axle." He said the way he understands it, the account goes up to $3,000. He gave an example of saving $100 per month to pay for braces for each of three children, and stressed that the key to this bill is that everyone has a different need. He said, "I don't care where you apply the medical savings account, the options are there for the individuals, the companies and everything. Right now they have no options." He said, when he was selling insurance, a family told him they wanted to buy dental insurance and he told them it wasn't cost effective. He said the MSA is for people who want to manage their own health care.

<u>Closing by Sponsor</u>:

REP. SIMON thanked the proponents who came to testify and thanked the opponents who didn't show up. He said it's not an insurance policy, it's something different. It's a savings account up to $3,000. He addressed **REP. TUSS'** concern about catastrophic events

being covered, and said that he envisioned the MSA making it possible for someone to purchase health insurance with a higher deductible, such as $2,500, thus making it more affordable. He said the vast majority of people covered by insurance never have claims that exceed $1,000 per year. He said, "We would become our own claims examiners, we'd pay our own bills out of our own account." It would save the insurance companies a good deal, so they would be willing to sell an insurance policy at considerably less money. He addressed **REP. SIMPKINS'** question about why someone would want to save more than $3,000. For someone who has sporadic employment, they could save when they have the income available to them.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Select Comm. Health Care COMMITTEE BILL NO. HB 560

DATE 2/21/95 SPONSOR(S) Rep. Simon

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Susan Good	Health MT	560		X
Dean Randash	NAPA	560		X
Tom Celles	MMBP	560		✓
Ann Miles	L&C Health	542		✓
Daniel Owen	MT Chamber	560		✓
LARRY AIKEN	MT ASSOC OF LIFE UNDERWRITERS	560		✓
Jerry Loveless	Mt. Med Assn	560		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

JOINT SELECT COMMITTEE ON HEALTH CARE

Call to Order: By **CHAIRMAN STEVE BENEDICT**, on March 7, 1995, at 5:35 p.m.

ROLL CALL

Members Present:
Sen. Steve Benedict, Chairman (R)
Rep. Scott J. Orr, Vice Chairman (R)
Sen. Dorothy Eck (D)
Sen. Mike Foster (R)
Rep. Duane Grimes (R)
Sen. Judy H. Jacobson (D)
Sen. Ken Miller (R)
Rep. Bruce T. Simon (R)
Rep. Carolyn M. Squires (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Council
David Niss, Legislative Council
Jennifer Gaasch, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: This was concerning the following bills: HB 511, HB 542, SJR 14, HB 405, SB 405, HB 531 and HB 560.
Executive Action: None

{Tape: 1; Side: A.}

The nature of the meeting was to have public input on all of the bills mentioned above and then questions would be asked by the committee members. Executive Action would be taken at a later date.

Discussion:

CHAIRMAN BENEDICT said he would like to know how the members of the committee would like to handle proxies.

SENATOR MIKE FOSTER said due to the circumstances that they could use written proxies for the votes in committee.

CHAIRMAN BENEDICT replied he would not have any problem with that. If they worked with blanket written proxies that would be fine.

Motion:

SEN. FOSTER MOVED to allow the use of written proxies to cast their votes.

Vote:

The **MOTION CARRIED UNANIMOUSLY.**

Discussion:

CHAIRMAN BENEDICT said the sponsors were notified about their bills and they were told they would not be required to open and close on their bill. He said they would take testimony from the public on different groups of bills and then after everyone has had a chance to testify, the committee members would ask questions.

Public Testimony:

SENATOR EVE FRANKLIN, SD 21, said she hoped they could put together a good package that would create some change.

Arlette Randash said SB 194 would not be considered by the committee, but it needs equal consideration and scrutiny just as HB 511 does. If the committee is going to investigate new directions of health care, SB 194 should be given consideration because it calls for the diminishing of the Montana Health Care Authority as created by SB 285. Its sponsor realized socialized medicine results. She said a decision would not be complete if SB 194 and HB 511 were not on the table.

Jack Molloy, a member of the Health Care Authority, said he would like to address the issues of the Health Care Authority as in SB 405. He said as far as the Montana Health Care Authority has been a wonderful exercise in listening to the people of Montana and has done a good job of being objective. He said they are at the cross roads and nationally there is a void which is being filled by cooperative efforts. He said it is too early in the process to back the stake out of an authority position in determining the health care services, needs and systems it supplies to its citizens. He said the Health Care Authority realized that they lack Montana specific data. They are not funding things in a matter that will give them legitimate data. He said it was important that the legislature send a message to the vulnerable populations of Montana that they do matter. He said voluntary purchasing pools would enlarge the base of health

insurance which would make it more available and more affordable. He said SB 405 does a good job of organizing the needs of voluntary purchasing pools. They feel the medical savings accounts are one way to encourage people to become insured. He said they need to have a way to measure the affects of those things. He said for that reason it is necessary for a Health Care Authority body that is fully funded by the state who is going to hold the industry to its obligations to the people of Montana if necessary. He said it was not a way for the state to take over health care. He said the only objective party that should oversee that should be the state.

Laurie Ekanger, representing the Governor's office, she said the Governor did support continuation of the Health Care Authority. It is in the budget to continue it and primarily to continue the collection of the data base. She said urged them to continue the data base function. **Laurie Ekanger** said the Governor's office supports the concept of Purchasing Pools. They think HB 405 looks like a good approach. There may be some need to protect those people who pay into a Purchasing pool. Concerning Medical Savings Accounts they felt HB 560 was the cleanest approach to start out.

Ed Grogan, representing the Montana Medical Benefit Plan, Montana Medical Benefit Trust and the Montana Business and Health Alliance, stated the Montana Health Care Authority knows the business and it gave government control of the health care. He said they did not want to see any more government control and therefore supports **REPRESENTATIVE JOHNSON'S** bill which is HB 511. On the Voluntary Purchasing Pools he favors HB 405 and disagrees with SB 405. He said SB 405 was adding more government control. He said that was too high a number for a small group. Concerning Medical Savings accounts, they support HB 531 and are against HB 560. Perhaps there could be a compromise of the 2 bills. They like the $3,000 limit in HB 560. He suggested all of the premium dollars to all be paid with Montana tax free dollars and then go over and above that to $500 a year per person or more to be put in the medical savings accounts. He said they looked at Medical Savings Accounts as a cost saving device being able to bind a persons insurance and pay the deductibles and co-payments with free tax dollars.

Tom Hopgood, representing the Health Insurance Association of America (HIAA), said concerning Medical Savings Accounts they have no opposition to the bills that had been introduced or to the concept of the Medical Savings Accounts. He said that was not a cure of all of the problems, but it is an alternative to take advantage of. Concerning Purchasing Pools one of the things that has to be addressed in order for health care to be reformed is cost. He said health insurance reform is not necessarily health care reform. They have to address the cost of health care. The Purchasing Pool concept is a cost containment measure. The have endorsed both HB 405 and SB 405. The HIAA believes they should infuse into the Purchasing Pool statute a great deal of

flexibility to allow innovation into the market place and allow cost cutting. They would lean more toward HB 405.

Larry Akey, representing the Montana Association of Life Underwriters, he said they represented around 700 professional insurance agencies. He said there needs to be some official body that would continue to look at health care in Montana. He said concerning Purchasing Pools they believe they will serve to contain costs in the market place. They need to look at both HB 405, and SB 405 and recognize that they were having licensed insurance agents selling licensed insurance products through a different marketing mechanism. He said they question if there needs to be further layers of regulation and whether those layers of regulation will in fact serve to reduce the cost controlling capabilities of the Purchasing Pools. They think the mechanism in HB 405 probably has a greater chance of success in the market place. If they believe there needs to be further regulation in the market place, please remember they are talking about licensed insurance agents selling licensed insurance products. Concerning Medical Savings Accounts, they think they are a concept worth exploring. They could not believe they will cure all of the problems that exist in the state. They think HB 560 does have a few modest advantages over HB 531. HB 560 also has some problems that HB 531 does not. Medical Savings Accounts are to allow individuals to buy health insurance with free tax dollars. It could be more adequately accomplished by making health insurance premiums fully deductible. He said there are at least 3 bills going through the system that do that. He urged the committee to endorse both Purchasing Pools and Medical Savings Accounts.

Susan Good, representing Heal Montana, said concerning the Montana Health Care Authority, SJR 14 was a creative and practical solution to that. She said concerning Purchasing Pools they are in support of HB 405. Whether a person chooses the threshold of a Purchasing Pool to be 1,000 or 750 or 862 does not really matter when they get to the point of when they have the group assembled the group drops below whatever number has been selected, at which point does the group cease to be a pool? She suggested there should be a formula developed to spell that out because it had never been addressed. Concerning Medical Savings Accounts, the concept is the centerpiece of the Heal Montana project. She said when an individual uses their own money for health care they are going to be more careful in the way they spend that money. HB 531 and HB 560 should somehow be combined in a way that the best concepts of both are employed. She said they would help come up with solutions to the problems that face all Montanans.

Tanya Ask, representing Blue Cross Blue Shield of Montana, she said they feel they feel the Health Care Authority process has been a very valuable process for the State of Montana. She urged that should be continued. Voluntary Purchasing Pools are a good concept to health with affordability of health care. It is part of the answer. They like HB 405 and can work with SB 405. They

urge an open process and feel that HB 405 will give that a more open process. She said she would like to address the 1,000, there is not a number that they can point to and say that will do it. She said 1,000 was put in there because they wanted to have a large enough number so there can be some attrition and still have a viable mechanism. That number is 1,000 eligible employees, not 1,000 people. She said the numbers would remain relatively constant. She said they urge them to consider a large enough number. Medical Savings Accounts do have a place in the health care reform equation. It does encourage individual responsibility. They have raised some questions in the drafting of HB 560. They will work on those problems. She passed out testimony for 2 days. **(EXHIBIT #1 and #2)**

Dean Randash, representing NAPA Auto Parts, read his written testimony. **(EXHIBIT #3)**

Bob Turner, representing the Department of Revenue, said he would like to address Medical Savings Accounts. He said the effective date on the bills should apply retroactively. They should also make sure that there are no double benefits. He said if they decide that a person can withdraw a certain amount out of the Medical Savings Account and put it into an IRA, that is another benefit and a double benefit. He said if during the time that money is in the Medical Savings Account and it is taken as an exclusion by the taxpayer and is put into a mutual savings account, what happens if the taxpayer takes a loss? Does the taxpayer get to use that loss, or is that lost because it was already taken as an exclusion? He said it would be a lot easier to administer if there was a maximum amount of contributions that could be made as an exclusion on the tax return.

CHAIRMAN BENEDICT replied he would like the Department to come to the committee with possible amendments or things they need to fix in the bill.

Bob Turner replied they would do that.

John Flink, representing the Montana Hospital Association, read his written testimony. **(EXHIBIT #4)**

{Tape: 1; Side: B.}

Claudia Clifford, representing the State Auditor's Office, the Commissioner of Insurance, and the Commissioner of Securities Office, said the commissioner served on the Health Care Authority and said that although insurance reform is needed, insurance reform is not comprehensive health care reform. There is a need for a good data base of information in order for the legislature to address other aspects of insurance reform, they support any legislation with adequate work on a data base. She read her

written testimony which included proposed amendments. **(EXHIBIT #5)** She stated they had talked with **REP. SIMON** about the amendments and he had agreed with them.

Frank Cote, the Deputy Insurance Commissioner, said that Purchasing Pools could be beneficial in the market place. Both of the bills could help consumers get affordable health care insurance. HB 405 has very little regulation in it. SB 405 has some more regulation. The committee must decide how much regulation would be needed. He said the committee should require the registration of the Purchasing Pools. He said the Purchasing Pools manager should have some fiduciary responsibility so the consumers would be protected. He submitted **(EXHIBIT #6)**.

Tom Ebzery, representing Yellowstone Community Health Plan, said they supported the Health Care Authority a few years ago, but a few weeks ago he supported the Health Care Advisory Council and had some suggestions on how that might be composed. He said on page 1 of the bill, they had talked about listing a lot of things to do. He said he had a problem with going out and bringing in people from all over the state. He recommended that there be a legislative committee as the advisory committee. He said HB 511 should go forward and the work that has been done, the certificate of public advantage over in the Department of Justice should continue. He said they were an HMO and every time they see a bill that comes up on small group or HB 531 those are plans set up for indemnity plans. HMO's are based upon co-payments and they would like to give them input in terms of schedules. He asked that they will keep managed care and HMO's in mind because they just do not fit under the circumstances.

Riley Johnson, representing the National Federation of Independent Businesses, said they agreed with **Tanya Ask** on the procedures in the past on the Montana Health Care Authority. He said they supported HB 511 and that it is time they take that experience and make it voluntary. He said they agreed with **Riley Johnson** in that the composition be looked at. They feel they are confident in the legislators. They would like the composition looked at and changed to a primary legislative committee. The problem they had about the data base was the detailing of what it would be used for and what it really would mean. He said regarding Voluntary Purchasing Pools, primarily HB 405 addresses the issue. He said it has a few things to work out and they would help in that effort. He said Voluntary Purchasing Pools give them cost reduction. He said on Medical Savings Accounts, they think that is affordability and responsibility. He said they support HB 560. They would like to see HB 511 to eliminate the Montana Health Care Authority, HB 405 for Voluntary Purchasing Pools, and HB 560 for Medical Savings Accounts.

David Owen, representing the Montana Chamber of Commerce, said the Chamber supported the creation of the Montana Health Care Authority. He said he does not have a specific suggestion on what form that authority would take in the future. He said concerning Purchasing Pools they were going to be important and he encouraged them to be voluntary, etc. He said they believe in that concept.

Keith Kovash, representing the Montana Association of Health Care Purchasers, read his written testimony. **(EXHIBIT #7)**

Anita Bennett, representing the Montana Logging Association, said they have found that the Health Care Authority did bring forth a lot of information. They have concerns of the process of bringing forward that information. She said they never discussed what the cost was to the consumer and to the employer, and the bottom line as to access of services. Guaranteed issue and affordability are not compatible. She said in regards to Voluntary Purchasing Pools, HB 405 seems to be more conducive to a better competitive arena and arrangement. They are a fully insured health insurance program. In regards to Medical Savings Accounts, they see that as an important step in regards to the timber industry people. She said those accounts would assist them in having accessibility of their own dollars put into the medical arena as they are needing the services at that point in time.

SENATOR JUDY JACOBSON, SD 18, Butte, said there was a lot more regulation in SB 405 and they could work some of that out together. She said SB 405 does allow individuals to participate. She said with small group, there would not be a guaranteed issue if those people were not eligible for small group. The could participate in a Purchasing Pool. The Purchasing Pool could certainly disallow them. One of the biggest problems is they have self-employed and young people in the state who cannot participate in any plan at all. She said SB 405 would not allow groups or individuals to be excluded based on their occupation. That is not included in HB 405. She passed out a summary sheet. **(EXHIBIT #8)**

REPRESENTATIVE GRIMES asked **Larry Akey** what were the downside to and the upside of individuals included in these bills regarding Purchasing Pools? **Larry Akey** said that there were both upsides and downsides to including individuals in a Purchasing Pool. There is a fundamental difference between individuals purchasing insurance and small employers purchasing insurance. There is a different motivation. Individuals are usually purchasing insurance because of an anticipated health risk. They are motivated by their health concerns. Employers are generally motivated by a concern in the labor market. They want to attract the best quality of employees they can. If they start putting individuals into pools they have strong potential for adverse selection. He said initially they ought to look at Purchasing

Pools fully for employers so they do not have that potential for adverse selection. That would drive the cost up. **REP. GRIMES** said **Mr. Akey** expressed some concerns about HB 560. He asked **Mr. Akey** to explain those concerns. **Mr. Akey** said HB 560 was more tightly crafted than the Medical Savings Account portion of HB 531. Under HB 531 an account administrator was defined as an employer. Under HB 560 an account administrator may be an employer who has a self-insured plan. Under HB 531 they have said a self employed individual was an employee. Does that also made that self-employed individual an employer, if it does, then there would be a self-employed individual acting potentially as his or her own account administrator. He said the definition of dependent in HB 560 is more in line with the kinds of definitions they use in the insurance industry. The definition of a dependent in HB 531 is a definition that looks like the tax code. He said they were talking about a health-related product and so it would make sense to them to have dependent defined in the Medical Savings Account bill more in line with the health care product that in the line of the tax code. HB 560 speaks to a specified dollar amount that could be contributed to a Medical Savings Account. It is important to recognize if they want to have deductible insurance premiums they may want to address that in a separate issue than Medical Savings Accounts. HB 531 has a nebulous amount that could be contributed to a Medical Savings Account based on premiums plus deductibles plus the co-payments they would have for a $1,000 deductible health insurance policy. There is nothing in the bill that says there is a specified dollar amount that could be contributed to the Medical Savings Account.

REPRESENTATIVE SIMON said there were a lot of amendments that were drafted. He asked how they might proceed to make the amendments available to the interested people. **CHAIRMAN BENEDICT** said they could distribute them tonight. **REP. SIMON** asked **Larry Akey** if **REPRESENTATIVE NELSON'S** bill, for example, or **SENATOR DOHERTY'S** bill that deals with deductibility of health insurance premiums passes and they pass a Medical Savings Account bill also, would a person then not be able to deduct the premiums that they pay and make a contribution to a Medical Savings Account. **Larry Akey** replied that if that were to happen, that a $3,000 cap on Medical Savings Account, would be more sufficient to help pay for the deductible and the co-payments of a policy for which they would have already been able to deduct the premiums. **REP. SIMON** asked **Bob Turner** if Medical Savings Accounts have been referred to as a Medical IRA, and under an IRA arrangement if that was applied to gains or losses based on interest on a regular IRA, how would that be treated as far as the Montana tax codes? **Bob Turner** replied the way it is treated is they put money into a regular IRA and it is put in a mutual fund and it loses money, they do not take a loss at all. They report that when they pull the IRA out. They already took the loss when they took the exclusion when arriving at the net gross income. **REP. SIMON** asked if a Medical Savings Account would be handled differently. **Bob Turner** replied no it would not. He said there is an

amendment put forth by the Department of Revenue so that if they did have a Medical Savings Account and they took out money from that to pay health insurance premiums, that would have to be deducted as an itemized deduction.

REPRESENTATIVE TUSS said in **Dr. Molloy's** testimony that he saw great value in collection of data and the utilization of that data. She asked him to give some definition and parameters to that data base and further explanation of how he would see that utilized. **Dr. Molloy** said the issue of the data base was to be one of the next projects of the Health Care Authority. He said there was the component of cost, who was paying for health care in Montana and how much money was being collected from state and federal agencies and where that money was going. From the stand point of providers, they wanted specific data on the cost of care for specific illnesses that they could compare across the state. One set of data is more complex and used to evaluate the health care system and from that data they distill specific data that they would be able to consume as usable and would make it very easy for consumers to compare that data. That has to include the payers of health care, who they are covering, what kind of dollars, and what benefits. He said people who testified said they want more consumer and more personal responsibility for how they spend their health care dollars, but that is very hard to do when there is data missing. The only data that is available is that data the providers or the insurance companies want the consumer to know about. He said they envision a data system to evaluate how the system works and how it is paid for and a system that is compatible for individual use to make their own health care decisions. **REP. TUSS** said it was time for the Health Care Authority to take a deep breath, look backward, and look forward. She said some references need to perhaps reflect the health council as opposed to the health authority. The Health Care Authority now has historical and institutional history throughout the state. How would he envision a transition between the authority and the council considering the data base? **Dr. Molloy** said the past year and a half has been consumed by the mandate of the previous legislation. Early on they realized the data that was available was at best several years old and a lot of it was extrapolated to Montana. It took a lot of time, effort, and expense to get usable data to present the 2 health care plans. He said they would have wished they could have moved forward in the last biennium to develop the data base system. He said those on the authority are uneasy about how raw data can be collected and disseminated and perhaps misused or misrepresented. They feel it is very critical that the knowledge be transported to and utilized in whatever the Health Care Authority or the Health Care Advisory Council or whatever it becomes. That knowledge has to be made available and those people would have to familiarize themselves with that in order to understand what data was necessary.

SENATOR ECK said **John Flink** suggested that the committee combine HB 542 into the advisory council. **John Flink** replied he made that suggestion because when he talked to **REPRESENTATIVE TASH** he was concerned with implementation. They felt there might be some way to meld them. He said the goals to improving the public health system in the state are a part of what they want to pursue and maybe the advisory council would be the ones to do that instead of establishing a separate entity out there. . **SEN. ECK** said she would like to know which group it is, is it the Montana Public Health Association that worked on that proposal? **REP. TUSS** replied it was the Department of Health and Environmental Sciences.

Mike Craig, representing the Montana Health Care Authority, said the Montana Public Health Task Force was affiliated with the Department of Health and local public health agencies, and their interested parties got that proposal together and brought if forth to the authority. The agree that they do not want to see any duplication, but must be reminded that there is a statutory link between the Department of Health and the local public health agencies. If that is combined with HB 511 there may be some legislation problems. The task force that is created by HB 542 could be dealt with through the new council. Department of Health would still have to be a main player. **SEN. ECK** said she did not understand what the rationale was for putting it into SRS. **Mike Craig** replied the rationale was because of the appearance that HB 511 would be what the majority of the legislature wishes it to happen, that SRS will take the responsibility of supporting the council. They suggested that they strongly encourage the work of data collection to go along with that somehow so that it does not get lost. HB 511 wipes out the Health Care Authority in its entirety including data base.

REP. SIMON stated that one of the reasons it was chosen to be put over there is because SRS is already involved in a lot of data collection.

SEN. JACOBSON replied that there are data base systems. Western States has instituted a data base. They already have one.

Exhibit # 1

BlueCross BlueShield of Montana

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Charles Butler, Jr.
Vice President
Government and Public Relations

EXHIBIT 1
DATE 3-7-95
many bills

March 8, 1995

Senator Steve Benedict, Chairman
Representative Scott Orr, Vice Chairman
Joint Select Committee on Health Care
Montana State Legislature
Capitol Building
Helena, MT 59620

Dear Chairman Benedict and Vice Chairman Orr:

Blue Cross and Blue Shield of Montana looks forward to working with you and your committee as we continue to define pieces of the health care reform equation for Montana. We have been a Montana company in business for over fifty years, currently providing health benefits or administration for more than 235,000 Montanans.

Over the last several years we have worked with Former Governors Stephens and Schwinden, and Governor Racicot, their health care task forces, the Authority, doctors, hospitals, allied health care providers, small and large businesses, labor, seniors, individuals, and agents on reforms of our industry and the healthcare delivery system. The goals continue to be not only access but also affordability.

When former Governor Stephens first brought up the idea of insurance market reform, it was to address practices for which the industry was criticized, and which the industry recognized needed to change. We cannot lose sight of those problems. Nor can we lose sight of who we said the detractors would be.

We will address these and specific issues as we go through some of the legislation which will be taken up by your committee. The legislation falls into three broad areas:

Insurance Reform: SB194, SB322, SB380, HB446, HB466, HB531, HB533.

Market Reform: SB376, SB405, HB405, HB531, HB560.

Health Care Reform: SB194, SB341, HB511, HB531.

Insurance Reform

These bills include action not only on small group reform, but also individual market reforms.

Insurance reforms were meant to address the following concerns:

1. Portability of coverage so individuals would not have to meet a new preexisting waiting period each time they or their employer changed coverage;
2. No cancellation or nonrenewal of coverage except for nonpayment of insurance premiums, addressing a concern that some insurers would only cover an individual until they became sick or submitted a claim; and
3. Access to the benefit market through anti-cherry-picking legislation called "guaranteed issue." We said when this consumer protection was first proposed for small groups that not everyone in our industry would agree with it, and as in other states where niche-marketing cherry pickers have complained about having to manage risk, you have received complaints here.

It was with the full knowledge and support of most members of the Insurance Access Committee that Governor Stephens included these provisions in his proposal for health care reform which Representative Tom Nelson originally proposed in the 1993 Legislature. These changes have been enacted by thirty-seven other states, including many of our neighbors like Wyoming, North Dakota, and Idaho.

HB446 by Representative Orr modifies the way insurance companies apply preexisting waiting periods on both individual and group benefits. Companies could only look back for three years when determining whether a condition is preexisting. Currently companies by law can look back up to five years.

The bill also acknowledges and restricts a current industry practice, used primarily in the individual market, of exclusionary riders. This allows an individual with a medical problem, which will probably be an expense in the near future (such as a bad knee needing surgery), to still get coverage for everything else. Without these riders, coverage would most likely be denied. Under this bill, the exclusionary rider could only be put in place for up to four years.

HB533 by Representative Arnott provides a mechanism for portability of time already met on preexisting waiting periods. Already part of small group reform, an individual moving into the small group market can waive the preexisting condition clauses so long as the person has been continuously covered. This bill allows that portability feature to apply going into the individual market as well.

SB322 by Senator Jacobson is similar to HB533, providing portability of waiting periods met into the individual market.

Small Group Reform

SB194 by Senator Baer repeals small group reform. We are opposed to repeal. We believe the reforms passed in 1993 are the right thing to do. We believe it was well-thought-out, and was discussed at length prior to, during, and since the 1993 session.

There are problems with the way small group reform was implemented, and we think HB466 is the appropriate mechanism to address these problems. HB466 by Representative Nelson modifies the small group access law. There are some changes we believe the Joint Committee may wish to make in this bill as passed by the House to make it stronger, particularly in the area of benefit design.

We prefer the idea of a standard benefit design, which contains a higher level of benefits, and basic benefit designs, which are leaner, being made available on a guaranteed issue basis. The Insurance Department would not establish the type of benefits which will be included, but would establish the level of patient responsibility. The floor for basic benefit designs would be the plan set by the Montana Comprehensive Healthcare Association coverage, as amended by SB431, if that bill passes.

In addition, a modification proposed by the House would be considered, the development of a leaner plan called the Uniform Benefit Plan which all insurers in the state would offer, but would not be subject to guaranteed issue. The Uniform Plan would serve as the basis of comparison for consumers who want to look at similar benefits from one company to another. This approach also addresses a concern raised by HEAL Montana that there should be a lower-priced level of benefits available on a nonguaranteed issue basis.

Under this approach there would be several products available on both a guaranteed issue and nonguaranteed issue basis, some developed by the marketplace and others, such as the Uniform Benefit Plan, serving as a point of price comparison. The products represent the range of choice the market wants from leaner to richer levels of benefits.

There are problems with the Uniform Benefit Plan as it is currently proposed in HB531 which HEAL Montana has said they are willing to address. Those are mentioned in the attached letter dated March 2.

SB380 by Senator Jacobson as amended expands the current small group reform applicability from the current 3-25 employee size to businesses with up to 50 eligible employees.

HB531 by Representative Orr, which contains many reform recommendations, is addressed in the enclosed letter.

Individuals with medical problems who work for small business and members of their families who may have an ongoing illness should not be discriminated against when purchasing health insurance. This practice of cherry-picking only the healthy workers and their families was outlawed by the Small Group Insurance Act. It should not be allowed to creep back into the Montana marketplace. Problems with Small Group can be fixed as suggested above.

Market Reform

HB405 by Representative Nelson and SB405 by Senator Jacobson both deal with the concept of insurance purchasing pools. The House version is preferred by business and insurance. While providing the mechanism to band together for more economies of scale, it does not introduce additional regulatory criteria, as is required by the Senate version. Market protections, however, are included.

SB341 by Senator Holden contains reforms and improvements in the Montana Comprehensive Healthcare Association insurance program of last resort. This approach is preferable to the approach taken by HEAL Montana. A caveat on benefit design--for each benefit added, there is a corresponding cost to the benefit.

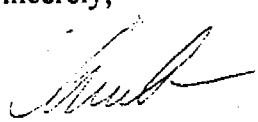
SB376 by Senator Christiaens addresses regulation of multi-employer welfare arrangements or MEWAs, self-funded employee health benefit arrangements which currently do not undergo state solvency scrutiny, nor do they comply with state market conduct criteria. This proposal is a start to some of the protections which need to be in place. More should be done, such as application of certain protections such as newborn coverage, contract disclosure, privacy protection, and insurance market reforms like noncancellation/nonrenewal prohibitions and guaranteed issue.

Health Care Reform

HB511 by Representative Johnson addresses concerns that we continue incremental reform recognizing problems continue for most Montanans with health care cost and access.

We look forward to working with you on these issues and any other proposals you review.

Sincerely,



Charles Butler, Jr.
(406) 444-8263

201TA303.1H/hcb
Enclosures
cc: Joint Committee Members

Blue Cross of Montana

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EXHIBIT 2
DATE 3-7-95
HB many bills

March 2, 1995

Senator Steve Benedict
Chair, Joint Select House-Senate
Health Care Committee
State Capitol
Helena, MT 59620

RE: HB 531

Dear Mr. Chairman:

House Bill 531, introduced by Representative Scott Orr, was heard by the Health Select Committee before transmittal. This proposal represents the HEAL Montana approach to health care reform.

At the hearing, we raised a number of concerns with this approach. As chair of the new joint House-Senate Health Care Committee that will consider legislation and issues contained in it, we wanted to share our concerns with you. The concerns are in three parts: Definition of a uniform health benefit plan and insurance market reforms, general concerns, and data disclosure considerations.

Uniform Health Plan and Insurance Market Reforms

There are numerous problems with Sections 2-4 as written. New Sections 2-6 apply to both group and individual insurance. Many large and not-so-large employer groups self-insure and are therefore not subject to these requirements. If more burdens and regulations are added, more employers will opt out of the regulated market to self-insurance.

a. The outline for the basic or uniform benefit plan should address issues, not attempt to legislate contract language. Actual language appears to be dictated in this legislation.

b. The Basic or Uniform Benefit Plan on page 3 contains 80/20 coverage; this is not basic, but actually pretty rich. If the attempt is to get more individuals covered by providing a lower cost alternative, a scaled-back approach should be explored.

c. Covered expenses use a usual, customary, and reasonable (UCR) reimbursement system--what about other payment systems:

- Managed care

- Capitation - fixed payment - amount
- Diagnostic Related Groups (DRGs)
- Resource-Based Relative Value System (RBRVS)--professional services reimbursement methodology

d. Benefits are scheduled for transplants--what if costs change or new transplants become norm? Benefit levels should not be scheduled in statute.

e. Disability insurance covers illness/accidents. Coverage for mental illness does not include mental retardation, which is a condition, not an illness that improves with treatment.

f. Specifically excluded medical expenses or services are listed. Again, why not allow traditional contract exclusions to apply? As an example, exclusion (G) is for complications to a newborn, unless no other source of coverage is available. If this is the basic plan that will be offered, it should cover newborns just as all other insurance in state must under regular insurance law.

g. Section 4 (2) requires only a three-month waiting period before full coverage is available, not the standard 12 months allowed elsewhere in insurance law.

h. Section 4, Lines 26 and 27 give individuals who don't pay their premiums 45 days of free coverage . . . We all know nothing is free, and the rest of us will pay.

i. Subsection 4 appears to allow an employee to elect to stay on his or her former employer's group plan even after going to a new place of employment with its own benefit plan. Conversion contracts, even at higher rates, don't pay the full cost of coverage. Capping the premium will mean small businesses and individuals pick up the tab.

j. A conversion cap of 150 percent of premium charged by the five insurers who write most individual policies is mandated, but these contracts may provide extremely different individual benefit levels.

k. Section 8 deals with preexisting look-back period of only 24 months. This only applies to Yellowstone Community Health Plan and Blue Cross and Blue Shield of Montana, not to the rest of the marketplace as written.

many bills

General Concerns

a. We're not sure what New Section 5 on page 9 does. This section is entitled "Commissioner Not to Prohibit Premiums Based on Loss Ratio Guarantee."

b. There is a problem with standardized claim form mentioned. This does not allow the traditional hospital form, the UB 92, to be used or accepted, nor is the standard dental form recognized. Also, what about including Workers' Compensation and Medicaid in standardization to further streamline administration?

c. Health benefits are being expanded for the MCHA--sick pool--a subsidized, state-sponsored pool. When designed, it was never intended to be low cost but was designed to be the pool of last resort. Subsidized by the insured market--individuals and small employers. Please note that many large employers such as government entities and hospitals self-insure--they are not part of assessment.

Data Considerations

Considerable sensitive cost and pricing information is to be made available to any person, not just those shopping for services. What is now illegal under antitrust laws would be legal, the banding together of providers to compare, and potentially set, prices. The temptation is for providers to discover that their prices are lower than their peers and to raise them.

Subsections 2 and 3 address health care providers and hospitals. Each are given 30 days to respond to requests for current charge information. If an individual is shopping for a health service, 30 days is usually too long to wait for the information. There is nothing about past charge experience for a given service, or the history of bundling or unbundling charges, which can lead to a significant distortion in the cost of a service.

Subsection 4 requires about twice the information from insurers. Some of the general marketing information is already available because of marketplace demands, but serious problems exist with sharing proprietary pricing information with our competition. In fact, a recent Supreme Court case to which Blue Cross and Blue Shield of Montana was a party dealt with a demand for and protection of that sort of proprietary information.

Information such as this has a great deal of value to the developer of the information. This is probably a state appropriation of private property without compensation.

There is also a significant difference in fines between insurers and all other data providers who fail to provide information as required. Insurers are fined $1,000 for each failure to

provide information and providers are fined $500.

I urge your serious consideration of these concerns as these reform proposals move through the process.

Sincerely,

Charles Butler, Jr.
(406) 444-8263

201CB301.1K/jmm
cc: Representative Scott Orr, Committee Vice Chairman
House Speaker John Mercer
Members of the Committee
Susan Good
Peter Blouke

Exhibit # 3

EXHIBIT 3
DATE 3-7-95

Combined Select Health Committee
March 7, 1995
Dean M. Randash - NAPA Auto Parts

Subject: MSA accounts

I would like to share my experience concerning my own creation of "MSA" accounts that took place before I even knew or understood what MSA accounts were.

In 1980 I was approached by Blue Cross Blue Shield to let them our group health insurance. We had an employee meeting to discuss the features and benefits of the deductible plan that we were currently on and the HMO plan the agent was selling. During the meeting the number one complaint of each employee was that they were not able to come up with the deductible when it was needed. The agent capitalized on that fact and really worked the sale concerning the small co-pay amounts.

The employees decided that they wanted this HMO Blue Cross Blue Shield program. Over the next three years the premiums increase over 75%. To compensate I was forced to charge 25% of the employee premium back to the employee. In March of 1994 I had enough, knowing the insurance company was playing pricing games, because we had no major medical claims, I went health insurance shopping. All employees agreed on the John Alden insurance even though they were not the cheapest. The new group premium was 42% lower than Blue Cross Blue Shield, in fact it brought our premiums down to the same level that we had been paying three years earlier.

I still needed to a address the problem of the $250.00 deductible. What I did was to take the dollars we saved in the premium reduction and placed it in a separate account receivable account for tracking purposes. At any time during the year the employee can submit a copy of a medical bill and we will write a check up to the deductible amount. Since it is their money it is necessary to return what ever amount is left in the account to them at the end of the premium year.

I can see from talking with them and in my own experience that this has done two things. One is made it possible for them to meet the deductible with out fear of where the money is going to come from. The other thing is it has made them, along with myself, far better managers of our health care spending since it was our money being spent.

As an new advocate of this concept, HB-531 seems to me to better addresses the amount of dollars eligible to be placed in the MSAs. HB-531 also seems to have better flexibility toward the total medical and insurance expenditures inclusion toward the total dollars per a given year.. HB-560 with a fixed amount could be a real problem for larger families. One thing that I didn't see in either plan is the treatment of a married couple filing jointly being treated fairly and equably in comparison to filing separately.

Exhibit # 3

EXHIBIT 3
DATE 3-7-95

Combined Select Health Committee
March 7, 1995
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EXHIBIT 4
DATE 3-7-95

Testimony by the
Montana Hospital Association
before the
Joint Select Committee on Health Care Issues
March 7, 1995

The Future of the Health Care Authority

My name is John Flink and I am vice president of the Montana Hospital Association. MHA represents 55 hospitals and Medical Assistance Facilities. In addition to providing acute care services, 45 of these facilities also provide long-term care services.

Two years ago, the Legislature recognized that serious problems afflict our state's health care system, and—with the enactment of SB 285 and the creation of the Health Care Authority—began the process of fixing these problems.

MHA strongly supported SB 285, and we have strongly supported the work of the Authority over the past 18 months. And we believe it is critical that the Legislature build on the Authority's work in the upcoming biennium.

As we look ahead to the next two years, we want to call your attention to several policies and issues that we believe must be addressed:

- **The problems that led to enactment of SB 285 have not gone away.** In fact, they are getting worse. Continued reductions in Medicare and Medicaid reimbursement have forced hospitals and other providers to shift even more of their costs to privately-insured patients, thus forcing increases in health insurance premiums for working families. Massive reductions in the Medicare and Medicaid program—as envisioned by some in Congress—would accelerate this cost-shifting. Meanwhile, the numbers of uninsured and underinsured Montanans continue to grow.

- The changes now occurring in the health care delivery system—the movement toward coordinated and managed care—will accelerate in the next biennium. These changes could result in savings to both privately- and publicly-insured persons. But to realize these savings, we must take a new look at the health care regulatory environment, removing barriers to coordinated care.

- We must continue to work toward achieving two principles: (1) **increasing the number of Montanans who have health insurance coverage** and (2) **reducing the cost of that coverage.**

- The Achilles heel of our efforts to address access to health care services and their cost is **data.** We certainly can't design and implement a comprehensive data system in the next biennium, but we can begin to make some decisions about what data is needed, how it should be collected and how it should be used. We also need to look at what information consumers need to make more informed decisions.

- Regardless of what form it takes, **there should be a clearinghouse for health care**

policy questions. We don't care whether you call it the Health Care Authority, the Health Care Advisory Council, or the office of health policy within the new Social Services super agency—but somewhere in state government there should be a clearinghouse for the discussion of health care policy options.

MHA supported HB 511, sponsored by Rep. Royal Johnson, because, in our view, it is the only realistic vehicle for addressing the problems facing the health care system.

However, we would suggest that you consider several modifications to this measure:

- We would urge you to expand the purpose on page 1, lines 24 to 28 to include monitoring development of systems for providing coordinated care and their impact on the overall cost of health care services.

- Strike Sections 17 through 21 in HB 531—the sections relating to data—introduced by Rep. Orr. As amended in the House Select Committee, HB 511 would require SRS to make recommendations to the Legislature for a comprehensive data system. We feel this is the most responsible way to approach the data issue.

- Incorporate the tasks mandated by HB 542, sponsored by Rep. Tash. Improving the public health programs in the state certainly is consistent with the goals of increasing access and reducing cost. Incorporating Rep. Tash's bill would enable us to pursue those goals, without establishing yet another task force.

- In its report to the governor and the Legislature, the Health Care Advisory Council should be required to recommend legislation for consideration during the 1997 session that would address the twin goals of health care reform: (1) to expand access to health care services and (2) to reduce the growth of health care costs. This report should also include administrative recommendations that would help achieve these goals.

Finally, I want to say that we have mixed feelings about Rep. Johnson's bill. While we see it as the bill with the best chance of passing, we also recognize that it has weaknesses.

For example, without additional staff resources, the Health Care Advisory Council will certainly be limited in the scope of issues it can address. And, while that may be politically popular in this legislative session, it does not help find solutions to some very pressing problems facing the health care system.

Thank you for your consideration.

MHA MONTANA HOSPITAL ASSOCIATION
1720 NINTH AVENUE • P.O. BOX 5119
HELENA, MT. 59604 • (406) 442-1911

Testimony by the
Montana Hospital Association
before the
Joint Select Committee on Health Care Issues
March 7, 1995

Medical Savings Accounts

My name is John Flink, and I represent the Montana Hospital Association.

The Montana Hospital Association gives Medical Savings Accounts a mixed review. On the one hand, we recognize that, with the proper safeguards, MSA's could be a tool in expanding access to health care insurance coverage. We also agree that they could help promote more cost-conscious purchasing of health care services by consumers.

But, on the other hand, we believe there are some other issues that must be carefully weighed before the Legislature endorses this concept:

- For example, who benefits from MSA's? In our view, they would probably benefit Montanans with above average income levels, and, without government subsidies, are not a viable way to extend coverage to low-income individuals and families.

- Secondly, we are concerned that MSA's create the wrong kind of incentive. It is quite possible that MSAholders would choose not to spend their money on preventive services, making them candidates for much more expensive health care services down the road. This concern is particularly important to us as we move toward coordinated or managed care systems.

- Third, we believe any MSA bill must require persons opening an MSA to demonstrate proof that they hold a catastrophic health insurance policy. Without such proof, MSA's would likely lead to even more hospital bad debt.

- Finally, we are concerned that MSA's would attract primarily healthy people, shrinking the risk pool needed to make health care coverage affordable to those in greatest need of health services.

If these concerns are addressed, MHA believes that MSA's can be a tool in expanding access to health care services and promoting greater cost consciousness among consumers.

STATE AUDITOR
STATE OF MONTANA

EXHIBIT 5
DATE 3-7-95

Mark O'Keefe
STATE AUDITOR

COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

Amendments Recommended To HB560
Proposed By Securities Department of The State Auditor's Office

House Bill 560 provides for the creation of medical savings accounts which may be administered by certain enumerated types of entities, including broker-dealers or investment advisers. The unamended bill would require administrators to determine whether expenses submitted by the employee are eligible for payment. There is an inherent conflict between the interests of the broker-dealer or investment adviser and the employee. The broker-dealer would like to retain the employee's funds for as long as possible, while the employee's best interests are served by paying as many eligible expenses as possible. The proposed amendments would require the account administrator's ability to pay all claims submitted by the employee. Because the employee suffers tax consequences if the account is used to pay ineligible expenses, there is no real reason to require the administrator to make this determination. The amendments also make clear that employees are entitled to all the protection afforded by the Securities Act of Montana. Unless House Bill 560 is amended, medical savings accounts would not have the same safeguards that cover other similar broker-dealer or investment adviser accounts.

1. Page 1, Line 23.
Following "30-10-103"
Insert: "and registered as such in this state pursuant to 30-10-201,"

2. Page 4, Line 1.
Following "care."
Insert: "(1) An employee or account holder may use funds held in a medical care savings account only for the purpose of paying the eligible medical expenses of the employee or account holder or the employee's or account holder's dependents, purchasing long-term care insurance or a long-term care annuity, or paying the expenses of administering the account. Funds held in a medical care savings account may not be used to pay medical expenses of the employee or account holder or a dependent of the employee or account holder that are otherwise reimbursable, including medical expenses payable pursuant to an automobile insurance policy, workers' compensation insurance policy or self-insured plan, or another health coverage policy, certificate, or contract."

Mitchell Building/PO Box 4009/Helena, Montana 59604-4009/(406) 444-2040/1-800-332-6148/FAX: (406) 444-3497

3. Page 4, Line 1.
Strike "(1)"
Insert "(2)"

4. Page 4, Line 5.
Strike "(2)"
Insert "(3)"

5. Page 4, Line 19.
Strike Lines 19 through 26 in their entirety.

6. Page 4, Line 30.
Following "for"
Strike "eligible medical expenses"
Insert " expenses for which documentation is submitted by the employee or account holder"

7. Page 5, Line 12.
Insert "(7) Nothing in [sections 1 through 7] of this chapter limits the applicability of other state or federal laws which apply to transactions between individuals or entities serving as account administrators and account holders."

Motion/Vote:

SEN. FOSTER MOVED DO PASS HB 405 **AS AMENDED.** The **MOTION CARRIED UNANIMOUSLY.**

SEN. JACOBSON would carry SB 405.

EXECUTIVE ACTION ON SB 405

Motion/Vote:

SEN. JACOBSON MOVED TO TABLE SB 405. The **MOTION CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 560

Motion:

REP. SIMON MOVED to **DO PASS** HB 560.

Discussion:

CHAIRMAN BENEDICT said there was a 3 page set of amendments. **(EXHIBIT #5)**

Motion:

REP. SIMON MOVED the AMENDMENTS (EXHIBIT #5)

Discussion:

David Niss said that paragraphs 1-3 were only to conform to the remainder of the amendments. They have added "or a dependent of the employee or account holder" throughout the amendments because they had not made it consistent through the bill that the Medical Savings Accounts could be used for health care expenses of dependents also. He said paragraphs 5 and 6 on the first page go together. Those let the employer contribute both the Medical Savings Account and to a health care insurance policy established by the employer.

CHAIRMAN BENEDICT said the employee would be getting a benefit from the money employer was paying for premiums on a catastrophic policy.

REP. SIMON said that subsection 4, on page 2, would explain that.

David Niss went through the amendments. He said the language on line 8, providing for the exception as in subsection 4, is being stricken because it is not really an exception, but is excess language. The language in 10 is to make that there is no limitation on the amount of money that could be deposited into the account as long as the exclusion for the principal that was

deposited could not exceed $3,000. It was an exclusion for determining Montana adjusted gross income.

CHAIRMAN BENEDICT said if they deposit $5,000, they would only get credit for a $3,000 exclusion.

Bob Turner, representing the Department of Revenue, said there was a limit of $3,000, but there is not a limit on the interest. The interest is also excluded out of the present law. It would be $3,00 plus the interest income. Page 7, line 11, subsection (i), it says principal and income. The $3,000 is the principal and income from that Medical Savings Accounts, if there is interest. He said they could have a principal contribution of $3,000 and any interest on top of that $3,000 would be excluded.

CHAIRMAN BENEDICT asked if that was the way he wanted it to be.

David Niss said that **Bob Turner** should look at the amendments paragraph 11.

Bob Turner said that was what he was seeing because it says the principal and interest.

REP. SIMON said he had not intention of excluding the interest from being sheltered. He said it was like an IRA and as long as it was being used for the appropriate purpose he would not object with the idea that the interest would also be sheltered. He said if they were to take the money out for nonmedical purposes they would be subjected to a penalty.

David Niss said the issue was if the $3,000 was a limitation on the exclusion of the principal or a limitation on the exclusion of the principal and income. He said the amendment makes clear that the $3,000 was a limitation only on the exclusion of principal. He said that paragraph was offered by the Department of Revenue because they had a concern that if they were excluding any amount of income on a yearly maximum $3,000 of principal, they were concerned whether there was any implication there that losses to the account could also be excluded and paragraph 12 of the amendments makes clear that losses are never to be excluded. Paragraph 14 of the amendments says if a person wins the lottery of inherits a great deal of money and deposits it as principal into the account, $3,000 in principal can be excluded per year.

REP. SIMON said he was thinking about those people who's income fluctuates from year to year and if they have a good year they could put aside more that the $3,000, but they could never take a tax break for more that $3,000 for any given year.

David Niss said paragraphs 15, and 16 were only for clarity. paragraph 17, makes clear that they are not just talking about interest in the pass book. Paragraph 18 is the dependant amendment for clarity purposes. Paragraph 19 is to clarify that there are three categories of money withdrawn from the account.

The first is money withdrawn for health care or long term care which can be withdrawn and spent tax free at any time. The second is the withdrawals on the last business day for any purpose, which is taxed as ordinary income. The third is for a withdrawal anytime except those mentioned that is both taxed as regular income and subject to the 10% penalty. He said all of the amendments on the third page are for clarity. Paragraph 28 makes it clear that it applies to the current tax year.

Motion:

REP. SIMON MOVED the amendments. **(EXHIBIT #5)**

Discussion:

CHAIRMAN BENEDICT asked if the concerns of the Department of Revenue had been answered.

Bob Turner asked if the maximum included $3,000 plus interest.

REP. SIMON said no.

David Niss said he had understood the intent to be that the $3,000 limit was to be a limit for the purposes of a deposit and exclusion of the principal only and any income on the $3,000 would be excluded. The amendments provide that any amount of money can be deposited into the account. $3,000 is excluded worth of principal per year and any amount of interest on that principal.

SEN. ECK said the effect would be that they could always exclude $3,000 and eventually might be able to exclude another amount of interest.

REP. SIMON said they would only have a large exclusion if a person had acquired a large sum of money. He said a person had accumulated that kind of money they would be moving toward a goal of being able to provide for long term care.

SEN. ECK said she was concerned about the total tax expenditure. She said they would need a new fiscal note to know what the impact would be.

REP. SIMON replied it may, but he did not think it would be a serious problem. He said he did not think it would change the fiscal note.

CHAIRMAN BENEDICT said the fiscal note was $3.1 million dollars in 1996 and in 1997 it was $15.5 million dollars. He asked if **Mr. Turner** agreed with what they were discussing.

Mr. Turner said that $24,000 on the lottery portion of the bill, would occur interest that would also be deductible each year along with the $3,000.

CHAIRMAN BENEDICT said the it would only be the interest on the $3,000 of that $24,000.

SEN. JACOBSON said they were setting up a situation where people could put an unlimited amount of money in there that will accumulate interest and will not be tax deductible and they should look at what will happen in the future. She said the federal government may move on this same sort of situation and it might double the numbers of people and the fiscal note may be larger than they expected.

CHAIRMAN BENEDICT said this bill if it comes out of this committee would go to the Senate floor and it has never had a hearing.

REP. SIMON said this was an $18 million dollar bill.

CHAIRMAN BENEDICT said he was looking at the $15.5 million in fiscal 1997.

REP. SIMON said they have to apply the assumption that only 20% of them would use the program so the net revenue impact was only $3.1 million.

CHAIRMAN BENEDICT said that was in tax year 1996 which would be fiscal year 1997.

Bob Turner said they were correct about the $3.1 million, but since the effective date was changed it would be about $6 million dollars.

SEN. JACOBSON on number 14 of the assumptions of the fiscal note, she was assuming that they could take out money for long term care without any penalty.

<u>Motion</u>:

SEN. ECK MOVED the amendments that allow the addition of interest and one-time lottery be segregated from the amendments. She wanted to allow no more than $3,000 per year. She said she liked the concept, but had problems that they are putting millions of dollars into that tax expenditure and they are unwilling to do anything for children and low income persons.

<u>Discussion</u>:

REP. SIMON asked if they were segregating them.

CHAIRMAN BENEDICT replied that was correct.

SEN. ECK said to limit them to $3,000 per year.

SEN. JACOBSON said that would be what **SEN. ECK** was going to try to do if it was segregated.

Vote:
(for segregation of the amendments)

The **MOTION CARRIED UNANIMOUSLY.**

Discussion:

CHAIRMAN BENEDICT said they would have the amendments minus the segregated amendments.

Vote:

The **MOTION CARRIED UNANIMOUSLY.**

Discussion :

SEN. ECK said those amendments were not in the bill yet.

REP. SIMON said that he did move all of the amendments and so they needed to vote on his motion and **SEN. ECK** is speaking against the second half of his motion. He said he wanted to speak in favor of it. He said it was rare that someone would put a lot of money into a Medical Savings Account, but they should have that option. He said the tax advantage for people to put money in without the federal is relatively small. He encourage to vote for the second half of his amendment.

{Tape: 2; Side: A.}

REP. GRIMES asked if **REP. SIMON** feels that it furthers some of the criticism that it was reverse incentive and it may further the concept of not fully utilizing the dollars that are in the accounts.

REP. SIMON said he did not see it that way. That is a separate issue. He said people utilize medical care when they need it.

SEN. JACOBSON said she was uncomfortable with no cap on the bill. It seems like she could go out and set up an account and put $20,000 in there and be given credit for $3,000 and she did not understand about the tax dollars.

CHAIRMAN BENEDICT said he wanted to make sure that if someone put $100,000 into the account, they would get an exclusion on the principal on the $3,000 and they would also be able to exclude all of the interest on the other $97,000.

Bob Turner replied that was correct.

David Niss replied that was correct.

Vote:

The **MOTION CARRIED** 6 to 4 by Roll Call Vote with **SEN. FOSTER, REP. GRIMES, SEN. MILLER, REP. SIMON, REP. ORR and SEN. BENEDICT** voting yes and **SEN. ECK, SEN. JACOBSON, REP. TUSS, and REP. SQUIRES** voting no.

Motion/Vote:

REP. SIMON MOVED to strike (c) on page 1, lines 22 and 23 so that a broker dealer or an investment advisor would not be an account administrator. The **MOTION CARRIED** with **REP. GRIMES** voting no.

Discussion:

CHAIRMAN BENEDICT said that his daughter was in a wheelchair and was a quadriplegic and durable medical was hard to come by. He wanted to tie something in that has to do with the $2,000 threshold for assets that a disabled person can have to qualify for medicaid to exclude this, a Medical Savings Account would not count toward that $2,000 exclusion.

Peter Blouke said he was not sure if they could do that under federal regulation. He said what is counted as an asset is generally driven by the federal medicaid laws. He said he would check to see if there would be some way to exclude it.

CHAIRMAN BENEDICT replied it would not just have to be for wheelchairs, but Medicaid does not and will not always pay for things. He said maybe they could pass a conceptual amendment that would be contingent on federal law.

Peter Blouke said they could do that.

Motion/Vote:

CHAIRMAN BENEDICT MOVED the conceptual amendment. The **MOTION CARRIED UNANIMOUSLY.**

Motion:

REP. SIMON MOVED HB 560 **AS AMENDED.**

Discussion:

SEN. ECK she asked if they were going to put a contingency voidness provision in the bill.

REP. SIMON said he was not familiar with that procedure. He asked if they have to identify specific cuts in Hb 560.

CHAIRMAN BENEDICT said they would have to identify specific cuts in HB 2.

REP. ORR said this was a small enough amount that it needs to have a contingent voidness clause. Those will be prioritized as to what they can afford. He said it would be proper to attach the clause.

REP. SIMON said he did not have any disagreement with that.

Motion/Vote:

SEN. ECK MOVED to attach a contingent voidness clause in HB 560. The **MOTION CARRIED UNANIMOUSLY.**

Vote:

The **MOTION CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 202

Motion:

REP. SIMON MOVED HB 202 **DO PASS.**

Motion/Vote:

REP. SIMON MOVED a contingency voidness clause. The **MOTION CARRIED UNANIMOUSLY.**

Motion:

CHAIRMAN BENEDICT MOVED an amendment to cut the bill in half and make it a 50% deduction rather than 100% to cut down on the fiscal note.

Discussion:

SEN. ECK said that for $9 million they could cover all children and pregnant women up to 200% poverty which would mean that access would be run greatly. She said this would provide fairness to those people who have insurance, but if they are not doing anything on the other end then she did not know if she could support that.

Vote:

The **MOTION CARRIED UNANIMOUSLY.**

Discussion:

CHAIRMAN BENEDICT said the Department of Revenue had some amendments to offer.

Bob Turner read and explained **(EXHIBIT #6).**

HOUSE STANDING COMMITTEE REPORT

March 14, 1995

Mr. Speaker: We, the committee on **Joint Select Committee on Health Care** report that **House Bill 560** (first reading copy -- white) **do pass as amended.**

Signed: _____
Steve Benedict, Chair

And, that such amendments read:

1. Title, line 8.
Following: "OF"
Insert: "AN EMPLOYEE OR ACCOUNT HOLDER OR A DEPENDENT OF"
Following: "THE"
Insert: "EMPLOYEE OR THE"

2. Title, line 9.
Following: "PENALTIES;"
Strike: "AND"

3. Title, line 10.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A CONTINGENT VOIDNESS PROVISION"

4. Page 1, line 22 and 23.
Strike: subsection (c) in its entirety

5. Page 2, line 18.
Following: "employer"
Insert: "or for a dependent of the employee"

6. Page 2, line 25.
Strike: "either"
Strike: "or"

Committee Vote:
Yes 10, No 0

Insert: ","

7. Page 2, line 26.
Following: "employee"
Insert: ", or to both the account and the policy or program"

8. Page 3, line 2.
Following: "interest"
Strike: "are"
Insert: "or other income is"

9. Page 3, line 7.
Following: "holder"
Insert: "or a dependent of the employee or account holder"

10. Page 3, line 8.
Strike: "Except as provided in subsection (4), an"
Insert: "An"

11. Page 3, lines 8 and 9.
Strike: "may deposit into an account in 1 year and"

12. Page 3, line 10.
Following: "funds"
Insert: "and interest or other income on those funds"

13. Page 3, line 12.
Following: "."
Insert: "An employee or account holder may not deduct pursuant to 15-30-121 or exclude pursuant to 15-30-111 an amount representing a loss in the value of an investment contained in an account."

14. Page 3, line 14.
Strike: "allowed by"
Insert: "excluded pursuant to"

15. Page 3, line 15.
Following: "."
Insert: "An employee or account holder who deposits more than $3,000 into an account in a year may exclude from the employee's or account holder's adjusted gross income in accordance with 15-30-111(2)(j) in a subsequent year any part of $3,000 per year not previously excluded."

16. Page 3, line 21.
Following: "(6)"
Strike: the remainder of line 21.

17. Page 3, line 22.
Strike: "liability."
Insert: "The employee or account holder who establishes the account is the owner of the account. An employee or account holder may withdraw money in an account and deposit the money in another account with a different or with the same account administrator without incurring tax liability."

18. Page 3, line 27.
Following: "interest"
Insert: "or other income"

19. Page 4, line 3.
Following: "holder"
Insert: "or a dependent of the employee or account holder"

20. Page 4, lines 4 and 10.
Following: "."
Insert: "Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the employee or account holder."

21. Page 4, line 6.
Strike: "and"
Insert: "or"

22. Page 4, line 21.
Following: "annuity"
Insert: "for the long-term care of the employee or account holder or a dependent of the employee or account holder"

23. Page 4, line 23.
Following: "expenses"
Insert: "or for a long-term care insurance policy or annuity"

24. Page 4, line 24.
Strike: "are"
Insert: "is"

25. Page 4, line 28.
Following: "holder"
Insert: "or a dependent of the employee or account holder"

26. Page 5, line 2.
Following: "annuity"
Insert: "for the employee or account holder or a dependent of the employee or account holder"

27. Page 7, line 12.
Following: "expenses"
Insert: ","
Following: "[section 2]"
Insert: ", of the taxpayer or a dependent of the taxpayer"

28. Page 7, line 13.
Following: "taxpayer"
Insert: "or a dependent of the taxpayer"

29. Page 8.
Following: line 11
Insert: "NEW SECTION. **Section 9. Account not to be treated as asset for purposes of eligibility.** If allowed by federal law, the principal and all interest or other income contained within an account established in accordance with [sections 1 through 7] may not be treated as an asset of the employee or account holder or as an asset of a dependent of the employee or account holder for the purposes of eligibility for the Montana medicaid program."

Renumber: subsequent section

30. Page 8, line 13.
Following: "instruction."
Insert: "(1)"

31. Page 8.
Following: line 14
Insert: "(2) [Section 9] is intended to be codified as an integral part of Title 53, chapter 6, and the provisions of Title 53, chapter 6, apply to [section 9].

NEW SECTION. **Section 11. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1994.

NEW SECTION. **Section 12. Effective date.** [This act] is effective on passage

and
approval.

NEW SECTION. **Section 13. Contingent voidness.** In order to maintain a balanced budget, because [this act] reduces revenue, it may not be transmitted to the governor unless a corresponding identified reduction in spending is contained in House Bill No. 2. If a corresponding identified reduction in spending is not contained in House Bill No. 2, [this act] is void."

-END-

MONTANA SENATE
1995 LEGISLATURE
JOINT SENATE-HOUSE SELECT COMMITTEE ON HEALTH CARE
ROLL CALL VOTE

DATE 3-13-95 BILL NO. HB 560 NUMBER 3

MOTION: To accept the rest of Rep. Simon's amendments.

NAME	AYE	NO
SENATOR DOROTHY ECK		X
SENATOR MIKE FOSTER	X	
REPRESENTATIVE DUANE GRIMES	X	
SENATOR JUDY JACOBSON		X
SENATOR KEN MILLER	X	
REPRESENTATIVE BRUCE SIMON	X	
REPRESENTATIVE CAROLYN SQUIRES		X
REPRESENTATIVE CARLEY TUSS		X
REPRESENTATIVE SCOTT ORR, VICE CHAIRMAN	X	
SENATOR STEVE BENEDICT, CHAIRMAN	X	

SEN:1995

Exhibit #5
3-13-95

Amendments to House Bill No. 560
First Reading Copy

Requested by Rep. Simon
For the Select Committee on Health Care

Prepared by David S. Niss
March 2, 1995

1. Title, line 8.
Following: "OF"
Insert: "AN EMPLOYEE OR ACCOUNT HOLDER OR A DEPENDENT OF"
Following: "THE"
Insert: "EMPLOYEE OR THE"

2. Title, line 9.
Following: "PENALTIES;"
Strike: "AND"

3. Title, line 10.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE"

4. Page 2, line 18.
Following: "employer"
Insert: "or for a dependent of the employee"

5. Page 2, line 25.
Strike: "either"
Strike: "or"
Insert: ","

6. Page 2, line 26.
Following: "employee"
Insert: ", or to both the account and the policy or program"

7. Page 3, line 2.
Following: "interest"
Strike: "are"
Insert: "or other income is"

8. Page 3, line 7.
Following: "holder"
Insert: "or a dependent of the employee or account holder"

9. Page 3, line 8.
Strike: "Except as provided in subsection (4), an"
Insert: "An"

10. Page 3, lines 8 and 9.
Strike: "may deposit into an account in 1 year and"

11. Page 3, line 10

Following: "funds"
Insert: "and interest or other income on those funds"

12. Page 3, line 12.
Following: "."
Insert: "An employee or account holder may not deduct pursuant to 15-30-121 or exclude pursuant to 15-30-111 an amount representing a loss in the value of an investment contained in an account."

13. Page 3, line 14.
Strike: "allowed by"
Insert: "excluded pursuant to"

14. Page 3, line 15.
Following: "."
Insert: "An employee or account holder who deposits more than $3,000 into an account in a year may exclude from the employee's or account holder's adjusted gross income in accordance with 15-30-111(2)(j) in a subsequent year any part of $3,000 per year not previously excluded."

15. Page 3, line 21.
Following: "(6)"
Strike: the remainder of line 21.

16. Page 3, line 22.
Strike: "liability."
Insert: "The employee or account holder who establishes the account is the owner of the account. An employee or account holder may withdraw money in an account and deposit the money in another account with a different or with the same account administrator without incurring tax liability."

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Following: "interest"
Insert: "or other income"

18. Page 4, line 3.
Following: "holder"
Insert: "or a dependent of the employee or account holder"

19. Page 4, lines 4 and 10.
Following: "."
Insert: "Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the employee or account holder."

20. Page 4, line 6.
Strike: "and"
Insert: "or"

21. Page 4, line 21.
Following: "annuity"
Insert: "for the long-term care of the employee or account holder

EXHIBIT 5
DATE 3-13-95

or a dependent of the employee or account holder"

22. Page 4, line 23.
Following: "expenses"
Insert: "or for a long-term care insurance policy or annuity"

23. Page 4, line 24.
Strike: "are"
Insert: "is"

24. Page 4, line 28.
Following: "holder"
Insert: "or a dependent of the employee or account holder"

25. Page 5, line 2.
Following: "annuity"
Insert: "for the employee or account holder or a dependent of the employee or account holder"

26. Page 7, line 12.
Following: "expenses"
Insert: ","
Following: "[section 2]"
Insert: ", of the taxpayer or a dependent of the taxpayer"

27. Page 7, line 13.
Following: "taxpayer"
Insert: "or a dependent of the taxpayer"

28. Page 8.
Following: line 14
Insert: "NEW SECTION. **Section 10. {standard} Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1994.

NEW SECTION. **Section 11. {standard} Effective date.** [This act] is effective on passage and approval."